

House File 2485 - Enrolled

House File 2485

AN ACT

RELATING TO PUBLIC EMPLOYEE COLLECTIVE BARGAINING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 20.1, subsection 2, paragraph e, Code 2009, is amended to read as follows:

e. Providing mediators, ~~fact finders~~, and arbitrators to resolve impasses in negotiations.

Sec. 2. Section 20.1, subsection 2, paragraph g, Code 2009, is amended to read as follows:

g. ~~Assisting the attorney general in the preparation of~~ Preparing legal briefs and ~~the presentation of~~ presenting oral arguments in the district court, the court of appeals, and the supreme court in cases affecting the board.

Sec. 3. Section 20.3, subsection 4, Code 2009, is amended to read as follows:

4. "Employee organization" means an organization of any kind in which public employees participate and which exists for the primary purpose of representing ~~public~~ employees in their employment relations.

Sec. 4. Section 20.3, subsection 5, Code 2009, is amended by striking the subsection.

Sec. 5. Section 20.5, subsection 3, Code 2009, is amended to read as follows:

3. The chairperson and the remaining two members shall be compensated as provided in section 7E.6, subsection 5. Members of the board and ~~other~~ employees of the board shall be allowed their actual and necessary expenses incurred in the performance of their duties. All expenses and salaries shall be paid from appropriations for such purposes and the board shall be subject to the budget requirements of chapter 8.

Sec. 6. Section 20.6, subsection 1, Code 2009, is amended to read as follows:

1. ~~Administer~~ Interpret, apply, and administer the provisions of this chapter.

Sec. 7. Section 20.10, subsection 1, Code 2009, is amended to read as follows:

1. It shall be a prohibited practice for any public employer, public employee or employee organization to ~~willfully~~ refuse to negotiate in good faith with respect to the scope of negotiations as defined in section 20.9.

Sec. 8. Section 20.10, subsection 2, unnumbered paragraph 1, Code 2009, is amended to read as follows:

It shall be a prohibited practice for a public employer or the employer's designated representative ~~willfully~~ to:

Sec. 9. Section 20.10, subsection 2, paragraph f, Code 2009, is amended to read as follows:

f. Deny the rights accompanying certification ~~or exclusive recognition~~ granted in this chapter.

Sec. 10. Section 20.10, subsection 3, unnumbered paragraph 1, Code 2009, is amended to read as follows:

It shall be a prohibited practice for public employees or an employee organization or for any person, union or organization or their agents ~~willfully~~ to:

Sec. 11. Section 20.10, subsection 3, paragraph b, Code 2009, is amended to read as follows:

b. Interfere, restrain, or coerce a public employer with respect to rights granted in this chapter or with respect to

selecting a representative for the purposes of negotiating collectively ~~on~~ or the adjustment of grievances.

Sec. 12. Section 20.10, subsection 3, paragraph f, Code 2009, is amended to read as follows:

f. Violate the provisions of sections 732.1 to 732.3, which are hereby made applicable to public employers, public employees, and public employee organizations.

Sec. 13. Section 20.10, subsection 4, Code 2009, is amended to read as follows:

4. The expressing of any views, argument or opinion, or the dissemination thereof, whether orally or in written, printed, graphic, or visual form, shall not constitute or be evidence of any ~~unfair labor prohibited~~ practice under any of the provisions of this chapter, if such expression contains no threat of reprisal or force or promise of benefit.

Sec. 14. Section 20.11, subsections 1, 2, and 3, Code 2009, are amended to read as follows:

1. Proceedings against a party alleging a violation of section 20.10, shall be commenced by filing a complaint with the board within ninety days of the alleged violation, causing a copy of the complaint to be served upon the accused party ~~in the manner of an original notice as provided in this chapter.~~ The accused party shall have ten days within which to file a written answer to the complaint. However, the board may conduct a preliminary investigation of the alleged violation, and if the board determines that the complaint has no basis in fact, the board may dismiss the complaint. The board shall promptly thereafter set a time and place for hearing in the county where the alleged violation occurred, provided, however, that the presiding officer may conduct the hearing through the use of technology from a remote location. The parties shall be permitted to be represented by counsel, summon witnesses, and request the board to subpoena witnesses on the requester's behalf. Compliance with the technical rules of pleading and evidence shall not be required.

2. The board may designate one of its members, an administrative law judge, or any other qualified person employed by the board to ~~conduct~~ serve as the presiding officer at the hearing. ~~The administrative law judge presiding officer has the powers as may be exercised by the board for conducting the hearing and shall follow the procedures adopted by the board for conducting the hearing. The proposed decision of the administrative law judge presiding officer may be appealed to the board and the board may hear the case de novo or upon the record as submitted before the administrative law judge, utilizing procedures governing appeals to the district court in this section so far as applicable, or reviewed on motion of the board, in accordance with the provisions of chapter 17A.~~

3. The board shall appoint a certified shorthand reporter to report the proceedings and the board shall fix the reasonable amount of compensation for such service, and for any transcript requested by the board, which ~~amount~~ amounts shall be taxed as other costs.

Sec. 15. Section 20.13, subsections 2 and 3, Code 2009, are amended to read as follows:

2. Within thirty days of receipt of a petition ~~or notice to all interested parties if on its own initiative,~~ the board shall conduct a public hearing, receive written or oral testimony, and promptly thereafter file an order defining the appropriate bargaining unit. In defining the unit, the board shall take into consideration, along with other relevant factors, the principles of efficient administration of government, the existence of a community of interest among public employees, the history and extent of public employee organization, geographical location, and the recommendations

of the parties involved.

3. Appeals from such order shall be governed by ~~appeal provisions provided in section 20.11~~ the provisions of chapter 17A

Sec. 16. Section 20.14, subsection 2, paragraph a, Code 2009, is amended to read as follows:

a. The employee organization has submitted a request to a public employer to bargain collectively ~~with~~ on behalf of a designated group of public employees.

Sec. 17. Section 20.14, subsection 6, Code 2009, is amended by striking the subsection.

Sec. 18. Section 20.15, subsections 1, 2, and 6, Code 2009, are amended to read as follows:

1. Upon the filing of a petition for certification of an employee organization, the board shall submit a question to the public employees at an election in ~~an appropriate~~ the bargaining unit found appropriate by the board. The question on the ballot shall permit the public employees to vote for no bargaining representation or for any employee organization which has petitioned for certification or which has presented proof satisfactory to the board of support of ten percent or more of the public employees in the appropriate unit.

2. If a majority of the votes cast on the question is for no bargaining representation, the public employees in the bargaining unit found appropriate by the board shall not be represented by an employee organization. If a majority of the votes cast on the question is for a listed employee organization, then ~~the~~ that employee organization shall represent the public employees in ~~an appropriate~~ the bargaining unit found appropriate by the board.

6. a. A petition for certification as ~~an~~ exclusive bargaining representative of a bargaining unit shall not be considered by the board for a period of one year from the date of the ~~certification or~~ noncertification of an employee organization as the exclusive bargaining representative or of that bargaining unit following a certification election. A petition for certification as the exclusive bargaining representative of a bargaining unit shall also not be considered by the board if the bargaining unit is at that time represented by a certified exclusive bargaining representative.

b. A petition for the decertification of the exclusive bargaining representative of a bargaining unit shall not be considered by the board for a period of one year from the date of its certification, or within one year of its continued certification following a decertification election, or during the duration of a collective bargaining agreement which, for purposes of this section, shall be deemed not to exceed two years. However, if a petition for decertification is filed during the duration of a collective bargaining agreement, the board shall award an election under this section not more than one hundred eighty days and not less than one hundred fifty days prior to the expiration of the collective bargaining agreement. If an employee organization is decertified, the board may receive petitions under section 20.14, provided that no such petition and no election conducted pursuant to such petition within one year from decertification shall include as a party the decertified employee organization.

c. A collective bargaining agreement with the state, its boards, commissions, departments, and agencies shall be for two years and the provisions of a collective bargaining agreement ~~except agreements agreed to or tentatively agreed to prior to July 1, 1977, or arbitrators' or arbitrator's award affecting~~ state employees shall not provide for renegotiations which would require the refinancing of salary and fringe benefits for the second year of the term of the agreement, except as

provided in section 20.17, subsection 6, and the effective date of any such agreement shall be July 1 of odd-numbered years, provided that if an exclusive bargaining representative is certified on a date which will prevent the negotiation of a collective bargaining agreement prior to July 1 of odd-numbered years for a period of two years, the certified collective bargaining representative may negotiate a one-year contract with ~~a~~ the public employer which shall be effective from July 1 of the even-numbered year to July 1 of the succeeding odd-numbered year when new contracts shall become effective. ~~However, if a petition for decertification is filed during the duration of a collective bargaining agreement, the board shall award an election under this section not more than one hundred eighty days nor less than one hundred fifty days prior to the expiration of the collective bargaining agreement. If an employee organization is decertified, the board may receive petitions under section 20.14, provided that no such petition and no election conducted pursuant to such petition within one year from decertification shall include as a party the decertified employee organization.~~

Sec. 19. Section 20.17, subsection 3, Code 2009, is amended to read as follows:

3. Negotiating sessions, strategy meetings of public employers ~~or employee organizations~~, mediation, and the deliberative process of arbitrators shall be exempt from the provisions of chapter 21. However, the employee organization shall present its initial bargaining position to the public employer at the first bargaining session. The public employer shall present its initial bargaining position to the employee organization at the second bargaining session, which shall be held no later than two weeks following the first bargaining session. Both sessions shall be open to the public and subject to the provisions of chapter 21. Parties who by agreement are utilizing a cooperative alternative bargaining process may exchange their respective initial interest statements in lieu of initial bargaining positions at these open sessions. Hearings conducted by arbitrators shall be open to the public.

Sec. 20. Section 20.17, subsection 6, Code 2009, is amended to read as follows:

6. ~~No A~~ collective bargaining agreement or ~~arbitrators' decision~~ arbitrator's award shall not be valid or enforceable if its implementation would be inconsistent with any statutory limitation on the public employer's funds, spending or budget or would substantially impair or limit the performance of any statutory duty by the public employer. A collective bargaining agreement or ~~arbitrators' arbitrator's~~ arbitrator's award may provide for benefits conditional upon specified funds to be obtained by the public employer, but the agreement shall provide either for automatic reduction of such conditional benefits or for additional bargaining if the funds are not obtained or if a lesser amount is obtained.

Sec. 21. Section 20.17, subsection 10, Code 2009, is amended to read as follows:

10. The negotiation of a proposed collective bargaining agreement by representatives of a state public employer and a state employee organization shall be complete not later than March 15 of the year when the agreement is to become effective. The board shall provide, by rule, a date on which any impasse item must be submitted to binding arbitration and for such other procedures as deemed necessary to provide for the completion of negotiations of proposed state collective bargaining agreements not later than March 15. The date selected for the mandatory submission of impasse items to binding arbitration shall be sufficiently in advance of March 15 to ~~insure~~ ensure that the ~~arbitrators' decision~~ arbitrator's

award can be reasonably made before March 15.

Sec. 22. Section 20.17, subsection 11, Code 2009, is amended to read as follows:

11. a. In the absence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date, public employees represented by a certified employee organization who are teachers licensed under chapter 272 and who are employed by a public employer which is a school district or area education agency shall complete the negotiation of a proposed collective bargaining agreement not later than May 31 of the year when the agreement is to become effective. The board shall provide, by rule, a date on which impasse items in such cases must be submitted to binding arbitration and for such other procedures as deemed necessary to provide for the completion of negotiations of proposed collective bargaining agreements not later than May 31. The date selected for the mandatory submission of impasse items to binding arbitration in such cases shall be sufficiently in advance of May 31 to ensure that the ~~arbitrators' decision~~ arbitrator's award can be reasonably made ~~before~~ by May 31.

~~b. If the public employer is a community college, the following apply:~~

~~(1) b. The negotiation of a proposed collective bargaining agreement shall be complete not later than May 31 of the year when the agreement is to become effective, absent the existence~~ In the absence of an impasse agreement negotiated pursuant to section 20.19 which provides for a different completion date, public employees represented by a certified employee organization who are employed by a public employer which is a community college shall complete the negotiation of a proposed collective bargaining agreement not later than May 31 of the year when the agreement is to become effective. The board shall ~~adopt rules providing for~~ provide, by rule, a date on which impasse items in such cases must be submitted to binding arbitration and for such other procedures as deemed necessary to provide for the completion of negotiations of proposed collective bargaining agreements not later than May 31. The date selected for the mandatory submission of impasse items to binding arbitration in such cases shall be sufficiently in advance of May 31 to ensure that the ~~arbitrators' decision~~ arbitrator's award can be reasonably made by May 31.

~~(2) c. Notwithstanding the provisions of subparagraph~~
~~(1) paragraphs "a" and "b", the May 31 deadline may be waived by mutual agreement of the parties to the collective bargaining agreement negotiations.~~

Sec. 23. Section 20.18, unnumbered paragraph 1, Code 2009, is amended to read as follows:

An agreement with an employee organization which is the exclusive representative of public employees in an appropriate unit may provide procedures for the consideration of public employee and employee organization grievances ~~and of disputes~~ over the interpretation and application of agreements. Negotiated procedures may provide for binding arbitration of public employee and employee organization grievances ~~and of disputes~~ over the interpretation and application of existing agreements. An arbitrator's decision on a grievance may not change or amend the terms, conditions, or applications of the collective bargaining agreement. Such procedures shall provide for the invoking of arbitration only with the approval of the employee organization in all instances, and in the case of an employee grievance, only with the additional approval of the public employee. The costs of arbitration shall be shared equally by the parties.

Sec. 24. Section 20.22, subsections 1, 2, and 3, Code 2009,

are amended to read as follows:

1. If an impasse persists ~~after the findings of fact and recommendations are made public by the fact-finder, the parties may continue to negotiate or~~ ten days after the mediator has been appointed, the board shall have the power, upon request of either party, to arrange for arbitration, which shall be binding. The request for arbitration shall be in writing and a copy of the request shall be served upon the other party.

2. ~~a. Each party shall submit to the board serve its final offer on each of the impasse items upon the other party within four days of the board's receipt of the request a final offer on the impasse items with proof of service of a copy upon the other party for arbitration. Each party shall also submit a copy of a draft of the proposed collective bargaining agreement to the extent to which agreement has been reached and the name of its selected arbitrator.~~ The parties may continue to negotiate all offers until an agreement is reached or ~~a decision an award is rendered by the panel of arbitrators.~~

~~b. As an alternative procedure, the two parties may agree to submit the dispute to a single arbitrator. If the parties cannot agree on the arbitrator within four days, the selection shall be made pursuant to subsection 5 arbitrator.~~ The full costs of arbitration under this ~~provision section~~ shall be shared equally by the parties to the dispute.

3. The submission of the impasse items to the ~~arbitrators arbitrator~~ shall be limited to those ~~issues that had been considered by the fact-finder and items~~ upon which the parties have not reached agreement. With respect to each such item, the ~~arbitration board arbitrator's~~ award shall be restricted to the final offers on each impasse item submitted by the parties to the ~~arbitration board or to the recommendation of the fact-finder on each impasse item arbitrator.~~

Sec. 25. Section 20 22, subsections 10 through 13, Code 2009, are amended to read as follows:

10. ~~The chairperson of the panel of arbitrators arbitrator may hold hearings and administer oaths, examine witnesses and documents, take testimony and receive evidence, and issue subpoenas to compel the attendance of witnesses and the production of records, and delegate such powers to other members of the panel of arbitrators.~~ The ~~chairperson of the panel of arbitrators arbitrator~~ may petition the district court at the seat of government or of the county in which ~~any the~~ hearing is held to enforce the order of the ~~chairperson arbitrator~~ compelling the attendance of witnesses and the production of records

11. ~~A majority of the panel of arbitrators The arbitrator shall select within fifteen days after its first meeting the hearing the most reasonable offer, in it's the arbitrator's judgment, of the final offers on each impasse item submitted by the parties, or the recommendations of the fact-finder on each impasse item.~~

12. The selections by the ~~panel of arbitrators arbitrator~~ and items agreed upon by the public employer and the employee organization, shall be deemed to be the collective bargaining agreement between the parties.

13. The determination of the ~~panel of arbitrators shall be by majority vote and arbitrator~~ shall be final and binding subject to the provisions of section 20.17, subsection 6. The ~~panel of arbitrators arbitrator~~ shall give written explanation for ~~its selection the arbitrator's selections~~ and inform the parties of ~~its the~~ decision.

Sec. 26. Section 20 22, subsection 4, Code 2009, is amended by striking the subsection and inserting in lieu thereof the following:

4. Upon the filing of the request for arbitration, a list

of five arbitrators shall be served upon the parties by the board. Within five days of service of the list, the parties shall determine by lot which party shall remove the first name from the list and the parties shall then alternately remove names from the list until the name of one person remains, who shall become the arbitrator. The parties shall immediately notify the board of their selection and the board shall notify the arbitrator. After consultation with the parties, the arbitrator shall set a time and place for an arbitration hearing.

Sec. 27. Section 20.22, subsections 5 and 6, Code 2009, are amended by striking the subsections.

Sec. 28. Section 20.22, subsections 7 and 8, Code 2009, are amended to read as follows:

7. ~~The panel of arbitrators~~ arbitrator shall at no time engage in an effort to mediate or otherwise settle the dispute in any manner other than that prescribed in this section.

8. ~~From the time of appointment the board notifies the arbitrator of the selection of the arbitrator until such time as the panel of arbitrators makes its final determination~~ arbitrator's selection on each impasse item is made, there shall be no discussion concerning recommendations for settlement of the dispute by the members of the panel of arbitrators arbitrator with parties other than those who are direct parties to the dispute. ~~The panel of arbitrators may conduct formal or informal hearings to discuss offers submitted by both parties.~~

Sec. 29. Section 20.22, subsection 9, unnumbered paragraph 1, Code 2009, is amended to read as follows:

The ~~panel of arbitrators~~ arbitrator shall consider, in addition to any other relevant factors, the following factors:

Sec. 30. Section 20.24, Code 2009, is amended to read as follows:

20.24 Notice and service.

Any notice required under the provisions of this chapter shall be in writing, but service thereof shall be sufficient if mailed by restricted certified mail, return receipt requested, addressed to the last known address of the ~~parties intended recipient~~, unless otherwise provided in this chapter. Refusal of restricted certified mail by any party shall be considered service. ~~Prescribed Unless otherwise provided in this chapter, prescribed time periods shall~~ commence from the date of the receipt of the notice. Any party may at any time execute and deliver an acceptance of service in lieu of mailed notice.

Sec. 31. REPEAL. Section 20.21, Code 2009, is repealed.

PATRICK J. MURPHY
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2485, Eighty-third General Assembly.

MARK BRANDSGARD
Chief Clerk of the House

Approved _____, 2010

CHESTER J. CULVER
Governor

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